CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Project Name: Amendments to the Land Use Code to clarify and add regulations pertaining to telecommunication devices regulated by City of Seattle

Applicant Name: City of Seattle - Department of Design, Construction and Land Use

Address of Proposal: City of Seattle, State of Washington

SUMMARY OF PROPOSED ACTION

The proposal is to amend the Land Use Code to modify regulations governing the location of telecommunication facilities and devices. The regulations include height limits, location and placement, where types of facilities are allowed, review processes based on type of devices and corresponding zones, mitigation of visual impacts, and regulations due to proximity to landmarks and/or historic structures

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: [ ] Exempt [X] DNS [ ] MDNS [ ] EIS
[ ] DNS with conditions
[ ] DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

Background

In August, 1999 a SEPA checklist was originally prepared on this proposal, followed by a Determination of Non Significance (DNS) issued August 26, 1999. This DNS was ultimately appealed by Seattleites for Appropriate Antennas in our Neighborhoods (SAANE). The appeal was heard by Anne Watanabe, Deputy Hearings Examiner (File W-99-010) on December 13, 1999 and subsequently affirmed. The City did not proceed with adoption of the proposed code changes that were the subject of that review. Instead, staff has developed additional code revisions, especially in the area of enhanced screening of communication facilities. These revisions, along with the underlying revisions that were the subject of the referenced SEPA review, were made available for public review on or about December 7, 2000, with the public comment period closing on January 12, 2001.

The Proposal

The proposal is to amend several sections of the Land Use Code that regulate minor and major Communication Utilities, accessory communication devices and associated infrastructure. The regulations are designed to provide specific reference to the uses and development standards codified under SMC 23.57, Telecommunications, as well as providing further regulation and clarification of the existing standards.

General Provisions

- Unused telecommunication equipment (poles, antennas, etc.) would be required to be removed.
- Co-location of minor communication utilities on existing major communication utilities would be allowed to reduce the potential for more monopoles.
- Interior facilities would be allowed outright in all zones, except in single family structures in single family zones, as long as this does not result in loss of a residential unit.

Revised Development Standards

- The 10-foot from property line setback requirement in Single Family and Commercial zones would be eliminated.
- Rooftop open space provisions (which are already in Lowrise zones) would be included in Midrise, Highrise and Downtown zones to require specified separation between transmitting antennas and required open space located on rooftops.
- Minor communication utilities and accessory communication devices in Commercial zones would be limited to 15 feet above the height of the building or 15 feet above the height limit in the zone, whichever is less.
- Minor communication utilities and accessory devices in Downtown would be limited to 15 feet above the height of the building or 15 feet above the height limit, whichever is less. However, such facilities and accompanying screening could be permitted through design review as long as the screening does not exceed ten percent of the maximum height of the zone.

Response to Visual Impacts

A new code section is devoted entirely to addressing and mitigating visual impacts and establishing design standards for telecommunication devices and infrastructure. This section would replace the current code language that requires measures, such as screening to mitigate visual impacts only when telecommunication facilities are to be located adjacent to or across a street from a public park or residentially zoned lot. The new regulations would require that visual impacts be addressed in all zones. Features of the new code section include the following:

A. Telecommunication facilities must be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Cohesiveness shall be established with key elements of the design.

B. If mounted on a pitched roof, facilities must be screened by materials incorporated in the pitch of the roof and matching color and texture as closely as possible, or integrated with and enclosed within structures such as dormers or gables compatible with the roof design.

C. If mounted on a flat roof, screening must extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Screening for dish antennas must be integrated with architectural design, material, shape and color. Siting must be near the center of the roof if in a separate screened enclosure, or mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures and at a sufficient distance below the top so as not to be silhouetted.

D. Facilities side-mounted on buildings must be integrated with architectural elements such as window design or building decorative features, or screened by siding or other materials matching the building exterior, or otherwise be integrated with design, material, shape, and color so as to not be visibly distinctive. In general, antennas are to be as unobtrusive as practicable, including the use of non-reflective materials. Installations on the primary building façade shall be allowed only if roof, ground-mounted, or secondary façade mounted installation is technically unfeasible.

E. Satellite dishes must be screened to the top of the dish on at last three (3) sides and shall be enclosed in the direction of the signal to the elevation allowed by the azimuth of the antenna. If screening on the remaining side is not to the top of the antenna, the antenna and the inside and outside of the screen shall be painted the same color to minimize visibility and mask the contrasting shape of the dish with building or landscape elements.

F. New antennas must be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

G. Antennas mounted on permitted accessory structure, such as a free standing sign, shall be integrated with design, material, shape and color and must not be visibly distinctive from the structure.

H. A screen for a ground-mounted dish antennas must be a minimum six feet (6') tall and shall extend to the top of the dish. The screen may be in the form of a view-obscuring fence, wall or hedge that shall be maintained in good condition. Chain link, plastic or vinyl fencing/screening is prohibited.

I. Antennas attached to a public facility, such as a water tank, must be integrated with the design, material, shape and color of, and shall not be visibly distinctive from, the public facility. Antennas attached to City-owned poles shall follow the terms and conditions contained in Section 15.32.300.

Type of Approval Required and Approval Criteria, By Zone

Single Family Zones

Facilities to be located on single family zoned lot developed with a single family house would have to obtain a Council Conditional Use (CCU) Permit as required by the current code. The proposed regulations require that such a use would be permitted only if it can be demonstrated that the location on the specific site is required to fill a gap in wireless services. Facilities to be placed in all other locations (vacant land, institutions, non-conforming commercially used structures, etc.) would need Administrative Conditional Use (ACU) approval. The current code provides for ACU approval only on an existing utility or public facility. In all other circumstances, a CCU is required. Attachment A provides a detail of the proposed approval criteria.

Lowrise, Midrise and Highrise Zones

No changes are proposed as to the type of approval (ACU/CCU) in these zones. However, changes in the approval criteria are proposed. As with the revisions proposed for single family zones, these criteria are also detailed in Attachment A.

Commercial Zones

It is proposed that an administrative conditional use (ACU) be required anywhere in Neighborhood Commercial (NC), Commercial (C), and Cascade Mixed zones for minor communication utilities that would exceed the height limit of the zone and for free standing transmission towers. The existing code requires an ACU only if the facility would exceed the height limit anywhere in NC zones and next to single family zones in C zones.

Pike Market Mixed, Pioneer Square Mixed, and International District zones

Minor communication utilities with up to 4 feet additional height above the roof would be permitted outright, while greater height would require an ACU approval. Current requirements for a Department of Neighborhoods Certificate of Approval are unchanged major communications utilities would continue to be prohibited.

Major Institutions

Allow minor communications facilities by administrative conditional use (ACU) for major institutions with underlying residential zoning even if telecommunication facilities are larger than that permitted in the

residential zone; provided that the antenna is one hundred (100) feet from the Major Institution Overlay district boundary and is substantially screened from the surrounding neighborhood's view. An ACU would not be required if a Major Institution Master Plan has been adopted that addresses telecommunication facilities.

Definitions and Exemptions

- Expanded or modified definitions, development regulations and review criteria are included for Personal Wireless Facilities, Fixed Wireless Service, Amateur Radio Towers, Dish Antennas, Minor Communication Utilities, Accessory Communication Devices, Freestanding Transmission Towers, Utility Service Use, and all other telecommunication devices and infrastructure regulated under the SMC. In general, federal definitions are used where appropriate.
- Exemptions from the regulations reflect federal preemption regarding the type and size of antennas or services which local government is permitted to regulate.

Other

- Amend the SEPA "Environmental Health" policy to incorporate the FCC preemption over radiofrequency emissions for personal wireless facilities.

Public Comment

As referenced, the initial review period on proposed code changes went through the public review process, providing an opportunity for comment and appeal through written or verbal comment. The initial review period ran from August 26, 1999 through September 28, 1999. This review period was interrupted during the appeal period for the SEPA, which also received public notice. Review for the subsequent changes was provided to stakeholders between December 7, 2000 through January 12, 2001.

ANALYSIS - SEPA

This proposal is for adoption of legislation and is defined as a non-project action. This action is not specifically addressed as a Categorical Exemption (SMC 25.05.800), therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal, which meets the definition of action and is not categorically exempt.

The disclosure of the potential impacts from this proposal was made in the original environmental checklist submitted by the applicant in August, 1999 and amended on December 28, 2000 for the current review. The information in the checklist and its supplement, the actual legislation, other information provided by the applicant and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

Projects subject to the provisions of this amendment may be reviewed for their individual site-specific environmental impacts. Certain projects will have to disclose the impacts that result from the changes proposed in this legislation throughout the SEPA process.

Height, bulk and scale

The adoption of the legislation would create an entire new code section (SMC 23.57.016) that focuses on mitigation of visual impacts associated with minor communication utility structures and associated devices. The mitigation will be required of all such new structures and devices in most zones, thereby reducing and/or modifying the height, bulk and scale impacts of these facilities. Further, existing regulations requiring Administrative Condition Use (ACU) permits or Council Conditional Use (CCU) permits for minor communication utility towers that are designed to exceed the underlying zoning height limits will continue to be required.

The current code requirement that communication facilities setback from the edge of the building has led to the need for taller facilities because facilities are not allowed to be incorporated into the parapet at the building'' edge. The proposal to eliminate this requirement coupled with the proposed visual impact standards encourage incorporation into the architecture of the building so that height, bulk and scale may be reduced.

Minor communication utilities and accessory communication devices in commercial and downtown zones would be limited to 15 feet above the height of the building or 15 feet above the height limit in the zone, whichever is less. Because the current code permits facilities to go 15 feet above the height limit, the proposed regulations are designed to decrease height in some circumstances as well as prevent "monopoles" on top of short buildings. An exception would allow minor communication utilities and accessory devices in downtown to go higher with accompanying screening if approved through design review as long as the screening does not exceed ten percent of the maximum height of the zone.

Aesthetics

As with code revisions that will result in reductions of height, bulk and scale, the new code section (SMC 23.57.016) requiring the mitigation of visual impacts will address aesthetic impacts of minor communication utilities and their related infrastructure. With the adoption of these standards, such impacts will also be reduced. In addition, the current code requires measures, such as screening, to mitigate visual impacts only in cases where telecommunication facilities are to be located adjacent to or across a street from a public park or residentially zoned lot. The new screening regulations described above would require that visual impacts be addressed in all zones.

Moreover, the new provision allowing interior facilities outright as well as the new requirement that unused telecommunication equipment (poles, antennas, etc.) be removed is expected to reduce visual clutter allowed under existing regulations.

Co-location of minor communication utilities on existing major communication utilities would be allowed to reduce the potential for more monopoles. In addition, allowing telecommunications facilities to locate on the edges of structures is expected to increase the opportunity for effective screening because the facility may better incorporated into building design/

Historic preservation

The code revisions will now allow minor communication utilities in Pioneer Square, International District, Columbia City, Ballard and all other special review, historic and landmark districts. These districts, regulated in both the Land Use Code and their own specific code sections under SMC 25, provide specific requirements include Certificates of Approval from their respective board authorities. While these uses will now be allowed where once prohibited, they will be subject to underlying code requirements as well as Administrative Conditional Use review when they do not meet the underlying zoning code requirements. Further, all minor communication utilities, regardless of their zone or landmark status, must be designed to minimize visibility from public streets or parks.

Land Use

The proposed code changes have created a number of revisions that will likely reduce the number of impacts on the property or on adjacent properties. The following provides more specific analysis of the proposed code changes:

General Provisions

- The required removal of unused telecommunication equipment (poles, antennas, etc.) is expected to reduce the negative impact of disused facilities
- The allowed co-location of minor communication utilities on existing major communication utilities is expected to reduce the potential for more intrusive monopoles.
- Allowing interior facilities outright in all zones, except in single family structures in SF zones should reduce potential land use conflicts.

Development Standards

- Incorporating rooftop open space provisions (which are already in Lowrise zones) into Midrise, Highrise and Downtown zones, require specified separation between transmitting antennas and required open space located on rooftops is expected to result in more usable open space in densely developed areas

- By limiting minor communication utilities/accessory devices in commercial zones to 15 feet above the height of the building or 15 feet above the height limit, whichever is less, the proposed regulations are designed to prevent 'monopoles' on top of shorter buildings, thus avoiding the land sue conflicts and commercial intrusions these engender.
- By limiting minor communication utilities/accessory devices downtown to 15 feet above the height of the building or 15 feet above the height limit, whichever is less, except when permitted through Design Review and provided that screening does not exceed ten percent of the maximum height of the zone and is expected to result in more compatible structures

Type of Approval Required and Approval Criteria, By Zone

Single Family Zones Facilities to be located on single family houses would still have to obtain a Council Conditional Use (CCU) Permit as required by the current code. The proposed regulations require that such a use would only be permitted if it can be demonstrated that the location on the specific site is required to fill a gap in wireless services. The actual proposed language is shown in Attachment A. This change is expected to reduce the potential for commercial intrusion in single family zones while maintaining legally required consistency with federal law. Facilities to be located on all other locations (vacant land, institutions, non-conforming commercial, etc.) would only need Administrative Conditional Use (ACU) approval; the current code provides for ACU approval only on an existing utility or public facility; a Council Conditional Use CCU everywhere else. This change is not expected to have significant impacts because strict code standards would still be applied and because many of the locations concerned are already commercial in nature.

Lowrise, Midrise and Highrise Zones Proposed revised criteria for ACU approval in these zones is included in Attachment A.

Commercial Zones It is proposed than an ACU be required anywhere in Neighborhood Commercial (NC), Commercial (C), and Cascade Mixed zones for minor communication utilities that would exceed the height limit of the zone and for free standing transmission towers. The existing code only requires an ACU if the facility would exceed the height limit anywhere in NC zones and next to single family zones in C zones. This change is expected to reduce the incidence of potential land use conflicts

Pike Market Mixed, Pioneer Square Mixed, and International District zones The proposed revisions would continue to prohibit major communication utilities, while permitting minor communication utilities; up to 4 feet additional height above the roof is permitted outright, while greater height would require an ACU approval. Current requirements for a Department of Neighborhoods Certificate of Approval are unchanged

Major Institutions The proposed revisions would allow an ACU for major institutions with underlying residential zoning even if telecommunication facilities are larger than that permitted in the residential zone; the antenna must be 100 feet from the Major Institution Overlay district boundary and be substantially screened from the surrounding neighborhood's view. An ACU would not be required if a Major Institution Master Plan has been adopted that addresses telecommunication facilities.

Definitions and Exemptions

- Expanded or modified definitions, development regulations and review criteria are included for Personal Wireless Facilities, Fixed Wireless Service, Amateur Radio Towers, Dish Antennas, Minor Communication Utilities, Accessory Communication Devices, Freestanding Transmission Towers, Utility Service Use, and all other telecommunication devices and infrastructure regulated under the SMC. In general, federal definitions are used where appropriate.
- Exemptions from the regulations reflect federal preemptions on the type and size of antennas or services which local governments are permitted to regulate.

Other

- Amend the SEPA "Environmental Health" policy to incorporate the FCC preemption over radiofrequency emissions for personal wireless facilities.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SEPA CONDITIONS

None.

Signature: _____ Date: _____

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